6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR -2022-0450, FRL-9927-01-R02]

Approval and Promulgation of Implementation Plans; New York; Oil and Natural Gas Control Measures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the state of New York. The revision provides the State's control measures for facilities within its borders subject to EPA's 2016 Control Techniques Guideline (CTG) for the oil and natural gas industry. The intended effect of this action is to approve this item into the New York SIP and satisfy the requirement for the CTG. This action is being taken in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS FROM DATE OF PUBLICATION].**

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R02-OAR-2022-0450 at http://www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do

not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION, CONTACT: Omar Hammad, Environmental Protection Agency, 290 Broadway, New York, New York 10007-1866, at (212) 637-3347, or by email at Hammad.Omar@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever ‘‘we,’’ ‘‘us,’’ or ‘‘our’’ is used, we mean EPA.

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I. Background and Purpose

A. Final Control Techniques Guidelines for the Oil and Natural Gas Industry

On October 27, 2016, EPA published in the *Federal Register* the "Final Control Techniques Guidelines for the Oil and Natural Gas Industry" (CTG) (81 FR 74798, October 27, 2016). The CTG provided information to state, local, and tribal air agencies to assist them in determining reasonably available control technology (RACT) for volatile organic compounds (VOC) emissions from select oil and natural gas industry emission sources. CAA section 182(b)(2)(A) requires that for ozone nonattainment areas classified as Moderate or above, states must revise their SIPs to include provisions to implement RACT for each category of VOC sources covered by a CTG document. CAA section 184(b)(1)(B) extends the RACT obligation to all areas of states within the Ozone Transport Region (OTR). In addition to New York being classified as nonattainment for the 2008 and 2015 ozone standards for the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT area, New York is a member state of the OTR. States subject to RACT requirements are required to adopt controls that are at least as stringent as those found within the CTG either via the adoption of regulations, or by issuance of single source orders or permits that outline what the source is required to do to meet RACT.

B. Finding of Failure to Submit

On October 29, 2020,[1] the U.S. Environmental Protection Agency (EPA) found that California, Connecticut, New York, Pennsylvania, and Texas failed to submit State Implementation Plan (SIP) revisions in a timely manner to satisfy the Clean Air Act's reasonably available control technology requirements (RACT) associated with EPA's 2016 Oil and Natural Gas Industry Control Techniques Guidelines (CTG).

[1] The finding of failure to submit for the oil and natural gas CTG was issued for the 2008 NAAQS on November 16, 2020 (85 FR 72963, November 16, 2020), with an effective date of December 16, 2020, and for the 2015 NAAQS on December 16, 2021 (86 FR 71385, December 16, 2021), with an effective date of January 18, 2022.

These findings of failure to submit established a 24-month deadline for EPA to either approve SIPs or finalize Federal Implementation Plans (FIPs) that address the CTG in each area or OTR state. This action also established timelines for the implementation of two mandatory sanctions that will begin if the named states do not submit complete SIPs to address the CTG: (1) Eighteen months after the effective date of these findings, a 2-to-1 offset ratio for the nonattainment New Source Review (NSR) permitting program will go into effect, such that for every unit of VOC or nitrogen oxide (NOx) emissions a new or modified source will contribute to the nonattainment area or OTR state, two units must be reduced; and (2) six months after the date of offset sanctions, federal highway funding may be withheld in nonattainment areas. For the OTR states, such highway sanctions would apply only in nonattainment areas in those states. If the OTR state does not contain any nonattainment areas, then the highway sanctions would not apply in that state.

II. Summary of New York's submission and EPA's analysis

On March 21, 2022, New York submitted for approval a SIP revision to incorporate the adoption of Title 6 of the New York Codes, Rules, and Regulations (NYCRR) Part 200, "General Provisions," and Part 203, "Oil and Natural Gas Sector," as adopted on January 18, 2022.[2] Part 200, section 200.9, amends Table 1 to add regulation 203-7.1(a) with a Code of Federal Regulations (CFR) citation of "40 CFR part 60, appendix A-7 (July 1, 2017)." Part 203 sets monitoring, operational, and reporting requirements for the oil and natural gas sector statewide. The adoption of part 203 is meant to satisfy the requirements to implement EPA's 2016 Oil and Natural Gas CTG within the 2008 and 2015 ozone nonattainment areas and statewide OTR requirements.

203-1 Applicability

[2] The submittal was deemed complete on April 8, 2022, this completeness determination stops the 2-1 NSR offset ratio and federal highway funding sanction clocks.

Part 203 applies to owners and operators of equipment and components that are associated with sources in the following oil and natural gas sectors: (1) Oil and natural gas production, (2) oil, condensate, and produced water separation and storage; (3) natural gas storage; (4) natural gas gathering and boosting; (5) natural gas transmission and compressor stations; and (6) natural gas metering and regulating stations. Part 203 does not apply to distributing gas utilities or to equipment and components located downstream of a Citygate.

EPA's 2016 CTG applies to: (1) Storage vessels, such as a tanks or other vessels in the oil and natural gas industry that contain an accumulation of crude oil, condensate, intermediate hydrocarbon liquids, or produced water, and that are constructed primarily of non-earthen materials (such as wood, concrete, steel, fiberglass, or plastic) that provide structural support; (2) compressors, applicable to centrifugal and reciprocating compressors in the oil and natural gas industry located between the wellhead and point of custody transfer to the natural gas transmission and storage segment; (3) pneumatic controllers, applicable to natural gas-driven pneumatic controllers in the oil and natural gas industry located between the wellhead and a natural gas processing plant (including the natural gas processing plant) or between the wellhead and the point of custody transfer to an oil pipeline; (4) pneumatic pumps, applicable to natural gas-driven chemical/methanol and diaphragm pumps located at natural gas processing plants and well sites; (5) equipment leaks from natural gas processing plants, applicable to the group of all equipment (except compressors and sampling connection systems) within a process unit located at a natural gas processing plant in VOC service or in wet gas service, and any device or system that is used to control VOC emissions (*e.g.*, a closed vent system); and (6) fugitive emissions from well sites and gathering boosting stations, applicable to the collection of fugitive emissions components at well sites with an average production of greater than 15 barrel equivalents per well per day (15 barrel equivalents) and the

collection of fugitive emissions components at gathering and boosting stations in the production segment.

EPA finds that Subpart 203-1 of New York's part 203, "Oil and Natural Gas Sector" satisfies the applicability requirements of the 2016 CTG and applies to a wider range than what is required in the 2016 CTG. Part 203 applies to all wells in New York. The New York State Department of Environmental Conservation (NYSDEC) did not adopt an exemption for lower-producing wells.

Subparts 203-2, "Oil and Natural Gas Well Activities," 203-3, "Natural Gas Gathering Lines," 203-4.1, "Storage Vessels," and 203-4.2, "Natural Gas Actuated Pneumatic Devices and Pumps"

Subparts 203-2, 203-3, and 203-4.1 require all storage vessels located at oil and natural gas well sites with a potential to emit greater than or equal to six tons per year (tpy) of VOC to either have a vapor control efficiency of 95 percent if installed prior to 2023, or to not vent to the atmosphere if installed after January 1, 2023.

Subparts 203-2, 203-3, and 203-4.2 require natural gas actuated pneumatic devices and pumps located at oil and natural gas well sites, gathering and boosting locations and compressor stations to prevent venting of natural gas to the atmosphere beginning on January 1, 2023, except for devices installed prior to 2023, that may be used provided they do not vent natural gas at a rate greater than six standard cubic feet per hour (scfh). When the device is idle and not actuating, the devices must be clearly marked with a permanent tag that identifies the vented emissions rate as less than or equal to six scfh. Devices must be tested by January 1, 2024, and then tested annually thereafter, no later than 13 months, and no earlier than 11 months from the previous test using a direct measurement method (high volume sampling, bagging, calibrated flow measuring instrument). Any device with a measured emissions flow rate greater than six scfh shall be successfully repaired within 14 days from the date of the initial emission

flow rate measurement. Beginning January 1, 2023, intermittent bleed natural gas actuated pneumatic devices shall comply with the leak detection and repair (LDAR) requirements specified in Subpart 203-7 when the device is idle and not controlling. Beginning January 1, 2023, natural gas actuated pneumatic pumps shall not vent natural gas to the atmosphere and shall comply with the LDAR requirements specified in Subpart 203-7.

EPA's 2016 CTG lists various control options, such as routing emissions to a process via a vapor recovery unit (VRU) with a 95 percent efficiency, routing emissions to a combustion device with an at least 95 percent efficiency or routing the emissions to a VRU with a combustion device as a backup with an assumed 95 percent emission reduction. The recommended RACT level of control in the CTG is a continuous 95 percent reduction of VOC.

EPA's 2016 CTG requires each diaphragm pump located at a well site capture and route VOC emissions to an existing control device or process that is located onsite, unless it is technically infeasible to route emissions to the existing control device or process. 95 percent control of VOC emissions must be controlled, unless the existing control device or process cannot achieve 95 percent control. If the existing control device cannot achieve a 95 percent control efficiency, the emissions must nevertheless be routed to the existing onsite control device to control emissions to the extent achievable. Documentation of the percent control that the onsite control device is designed to achieve must be maintained. If there is no existing control device at the location of the pump, a certification that there is no device must be submitted. If a control device is subsequently added to the site where the pump is located, then the VOC emissions from the pump must be captured and routed to the newly installed control device.

EPA finds that Subparts 203-2, 203-3, 203-4.1, and 203-4.2 of New York's Part 203, "Oil and Natural Gas Sector" satisfy, and go beyond the storage vessel and

pneumatic pump RACT requirements of the 2016 CTG by requiring at least a 95 percent emission control efficiency for storage vessels installed prior to 2023 and eliminating venting for storage vessels installed after January 1, 2023. Similarly, prohibiting venting for pneumatic pumps at oil and natural gas wells, gathering and boosting locations, and compressor stations installed after January 1, 2023, and limiting the measured emissions flow rate to six scfh for devices installed prior to 2023 satisfy the RACT requirements of the 2016 CTG.

Subpart 203-4, "Natural Gas Transmission Pipelines and Compressor Stations"

Subpart 203-4.3 applies to centrifugal natural gas compressors located at natural gas transmission compressor stations, and natural gas underground storage facilities. This subpart does not apply to centrifugal natural gas compressors that operate less than 200 hours over a rolling 12-month period. Beginning on January 1, 2023, centrifugal compressors with wet seals shall control the wet seal vent gas with the use of a vapor collection system as described in Subpart 203-8 or shall replace the wet seal with a dry seal. Beginning on January 1, 2023, components on driver engines and compressors that use a wet seal, or a dry seal shall comply with the LDAR requirements specified in Subpart 203-7. The compressor wet seal shall be measured annually by direct measurement (high volume sampling, bagging, calibrated flow measuring instrument) while the compressor is running at normal operating temperature in order to determine the wet seal emission flow rate. A compressor with a wet seal emission flow rate greater than three scfm, or a combined flow rate greater than the number of wet seals multiplied by three scfm, shall be successfully repaired within 30 days of the initial flow rate measurement.

Subpart 203-4.4 applies to reciprocating natural gas compressors located at natural gas transmission compressor stations, and natural gas underground storage facilities. This subpart does not apply to reciprocating natural gas compressors that

operate fewer than 200 hours over a rolling 12-month period. Beginning on January 1, 2023, components on driver engines and compressors shall comply with the LDAR requirements specified in Subpart 203-7, with the exception of the rod-packing components, the compressor rod packing, or seal emission flow rate through the rod packing, or seal vent stack, which shall be measured annually by direct measurement (high volume sampling, bagging, calibrated flow measuring instrument) while the compressor is running at normal operating temperature. Beginning on January 1, 2023, compressor vent stacks used to vent rod packing or seal emissions shall be controlled with the use of a vapor collection system as specified in Subpart 203-8. A compressor with a rod packing or seal with a measured emission flow rate greater than two scfm, or a combined rod packing or seal emission flow rate greater than the number of compression cylinders multiplied by two scfm, shall be successfully repaired within 30 days from the date of the initial emission flow rate measurement.

Subpart 203-4.5 applies to blowdown activity at compressor stations and transmission pipelines greater than 10,000 standard feet cubed (scf) and requires notification to the NYSDEC and appropriate local authorities of at least 48 hours in advance of a planned blowdown event. If any of the information reported prior to the blowdown changed during or after the blowdown, another notification to the NYSDEC and appropriate local authorities shall be made with the updates no later than 48 hours after the end of the planned blowdown. For unplanned blowdowns, notification to the NYSDEC and appropriate local authorities must be provided within 30 minutes of blowdown, or as soon as it is safe to do so.

Subpart 203-4.6 applies to any Pigging activity along natural gas pipelines and requires recording and reporting Pigging activities and estimated natural gas loss to the NYSDEC by March 31st of each year for the previous calendar year.

EPA's 2016 CTG requires VOC emissions to be reduced by at least 95 percent (the recommended RACT level of control) from a centrifugal compressor equipped with a wet seal when using a control device or other control measure (such as routing to a process). The centrifugal compressor should be equipped with a cover that is connected through a closed vent system that routes emissions to the control device (or process) that meets the RACT level of control. The CTG does not recommend that RACT apply to individual centrifugal compressors using wet seals located at a well site, or an adjacent well site that services more than one well site. The 2016 CTG recommends that each reciprocating compressor reduce VOC emissions by replacing the rod packing on or before 26,000 hours of operation or 36 months from the date of the last rod packing replacement. It also recommends that an alternative be provided to allow routing of rod packing emissions to a process via a closed vent system under negative pressure in lieu of the specified rod packing replacement periods. The CTG does not recommend that RACT apply to individual reciprocating compressors located at a well site, or an adjacent well site that services more than one well site.

EPA finds that Subpart 203-4 of New York's part 203, "Oil and Natural Gas Sector" satisfies or goes beyond the requirements of the CTG. Subpart 203-4 goes beyond the CTG by requiring the use of vapor collection systems and vapor control devices for centrifugal compressors equipped with a wet seal, as well as requiring notification for any blowdown or Pigging activities. Subpart 203-4 satisfies the CTG by requiring reciprocating natural gas compressors to detect leaks and repair them and requiring direct annual measurement for the rod packing components, the compressor rod packing or seal emission flow rate through the rod packing, or seal vent stack.

Subparts 203-5, "Natural Gas Underground Storage Facilities" and 203-6, "City Gate"

Subparts 203-5 and 203-6 apply to natural gas underground storage facilities and metering and regulating components and require LDAR as specified in Subpart 203-7.

EPA's 2016 CTG applies RACT to equipment leaks from natural gas processing plants and recommends that RACT for natural gas processing plants be the implementation of an LDAR program equivalent to what is required under 40 CFR part 60 subpart VVa for equipment (with the exception of compressors and sampling connection systems) in VOC service.

EPA finds that Subparts 203-5 and 203-6 of New York's part 203, "Oil and Natural Gas Sector" satisfy and go beyond, the requirements of the 2016 CTG. The NYSDEC requires LDAR, as specified in Subpart 203-7, in order to monitor for methane (CH4) and VOC.

Subpart 203-7, "Leak Detection and Repair"

Subpart 203-7 does not apply to components that are: (1) Buried below ground, (2) used to supply compressed air to equipment or instrumentation, (3) operating under a negative gauge pressure, or below atmospheric pressure, or (4) used for general maintenance for fewer than 15 days over a 12-month period if the owner or operator maintains for at least five years, and can make available at the request of the NYSDEC, a record of the date when the components were installed and removed. Subpart 203-7 also does not apply to pneumatic devices or pumps that use compressed air or electricity to operate and a compressor rod packing, which is subject to annual emission flow rate testing as specified in Subpart 203-4.4.

Subpart 203-7.1 requires all owners and operators to comply by either: (1) Opting to comply using EPA Method 21, where fugitive emission is defined as an instrument reading of 500 ppm CH4 and VOC, 500 ppm or greater of CH4 and VOC using a Flame Ionization Detector (FID)-based instrument, and if an analyzer other than a FID-based instrument is used, a site-specific fugitive emission definition must be developed by the

owner or operator that would be equivalent to 500 ppm of CH4 and VOC using a FID-based instrument. Such site-specific fugitive emission definition is subject to approval by the NYSDEC; (2) using optical gas imaging (OGI) equipment that is capable of imaging gases in the spectral range for CH4 and VOC in the potential fugitive emissions, and whose calibration and maintenance procedures comply with those recommended by the manufacturer; and (3) using alternative techniques that are approved by the NYSDEC in lieu of, or in combination with, OGI, Method 21, or other previously approved alternative methods. A proposed alternative method must be able to demonstrate that it is capable of identifying leaks and that it is at least as effective as the leak detection methods achieved using Method 21 or OGI.

Subpart 203-7.2, "LDAR Frequency," requires that for oil and natural gas wells, wellheads, and components subject to Subpart 203-2, each well site shall be inspected by OGI, Method 21 or similar approved alternative method semiannually, or one time over 24 months if using an approved alternative method which offers continuous monitoring. For natural gas gathering and boosting components subject to Subpart 203-3, each gathering and boosting station shall be inspected by OGI, Method 21 or similar approved alternative method quarterly, or one time over 24 months if using an approved alternative method which offers continuous monitoring. Natural gas transmission compressor station components subject to Subpart 203-4 shall be inspected by OGI, Method 21, or similar approved alternative method bimonthly, at least 45 days apart, or one time over 12 months if using an approved alternative method which offers continuous monitoring. Storage facility components subject to Subpart 203-5 shall be inspected by OGI, Method 21, or similar approved alternative method bimonthly, at least 45 days apart, or one time over 12 months if using an approved alternative method which offers continuous monitoring. City gate components subject to Subpart 203-6 shall be inspected by OGI,

Method 21, or similar approved alternative method quarterly, or one time over 12 months if using an approved alternative method which offers continuous monitoring.

Subpart 203-7.3 applies to leaks and requires, upon detection of a leak from any equipment or component subject to part 203, that the owner or operator affix to that component a weatherproof, readily visible tag that identifies the date and time of leak detection. The owner or operator shall maintain for at least five years, and make available upon request by the NYSDEC, a record of leaks identified, and shall report to the NYSDEC within 60 days after the re-inspection of repaired leaks is complete. Leaks shall be repaired within 30 days of identification. Repaired leaks shall be re-inspected using the methods specified in subpart 203-7 within 15 days of repair. Critical components or critical process units shall be successfully repaired by the end of the next process shutdown or within 12 months from the date of initial leak detection, whichever is sooner. A delay of repair may be granted by the NYSDEC under the following conditions: (1) The owner or operator can demonstrate that the parts or equipment required to make necessary repairs have been ordered. A delay of repair to obtain parts or equipment shall not exceed 30 days, unless the owner or operator notifies the NYSDEC to report the delay and provides an estimated time by which the repairs will be completed, or (2) a gas service utility can provide documentation, in a form suitable to the NYSDEC, that a system has been temporarily classified as critical to reliable public gas system operation as ordered by the utility's gas control office.

EPA's 2016 CTG applies RACT to equipment leaks from natural gas processing plants and recommends that RACT for natural gas processing plants be the implementation of an LDAR program equivalent to what is required under 40 CFR part 60 subpart VVa for equipment (with the exception of compressors and sampling connection systems) in VOC service. The subpart VVa leak detection and repair program requires the annual monitoring of connectors using an organic vapor analyzer (OVA) or

toxic vapor analyzer (TVA) (with leaks defined as readings of at least 500 ppm), monthly monitoring of valves (where again, leaks are defined as readings of at least 500 ppm), and requires open-ended lines and pressure relief devices to operate with no detectable emissions (defined as emissions of less than 500 ppm above background).

EPA finds that Subpart 203-7 of New York's part 203, "Oil and Natural Gas Sector" satisfies and goes beyond the requirements of the 2016 CTG. The NYSDEC requires LDAR, as specified in Subpart 203-7 in order to monitor for CH4 and VOC.

Subpart 203-8, "Vapor Collection Systems and Vapor Control Devices"

Beginning on January 1, 2023, Subpart 203-8 applies to equipment that must be controlled using a vapor collection system and control device pursuant to the requirements specified in Part 203. The vapor collection system shall direct the collected vapors to a sales gas system, or a fuel gas system. If no sales gas system or fuel gas system is available at the facility, the owner or operator must control the collected vapors by January 1, 2024. Any vapor control device required must achieve at least 95 percent vapor collection control efficiency of total emissions and must meet all applicable federal and state requirements. Vapor collection systems and control devices may be taken out of service for up to 30 days per rolling 12-month period to perform maintenance while the facility continues to operate. A time extension to perform maintenance not to exceed 14 days per 12-month period may be granted by the NYSDEC. If an alternate vapor control device compliant with section 203-8.1 is installed prior to conducting maintenance, and the vapor collection and control system continues to collect and control vapors during the maintenance operation consistent with the applicable standards specified in Subpart 203-8, the event does not count towards the 30-day limit. Vapor collection system and control device shutdowns that result from emergencies are not subject to enforcement action, provided the equipment resumes normal operation immediately after the emergency.

EPA's 2016 CTG states that routing emissions to a process via a vapor recovery unit (VRU) should have at least a 95 percent efficiency rating.

EPA finds that Subpart 203-8 of New York's part 203, "Oil and Natural Gas Sector" satisfies and goes beyond the requirements of the CTG by requiring vapor recovery and control for a wider range of applications in the oil and natural gas industry.

Subpart 203-9, "Feasibility and Safety"

Subpart 203-9 states that a repair or replacement may not be delayed unless it results in a vented blowdown, a gathering and boosting station shutdown, a well shutdown, a well shut-in, or rationale for continued operation is submitted to the NYSDEC to be later deemed technically infeasible or unsafe by the New York State Department of Public Service or other federal or state regulatory agency.

The repair or replacement delay may be extended until the next compressor station shutdown, the next gathering and boosting station shutdown, well shutdown, well shut-in, the next unscheduled, planned or emergency vent blowdown, or within one year.

EPA's 2016 CTG recommends certain RACT control requirements with functional and safety exceptions.

EPA finds that Subpart 203-9 of New York's part 203, "Oil and Natural Gas Sector" satisfies the requirements of the 2016 CTG.

Subpart 203-10, "Reporting and Recordkeeping"

Subpart 203-10.1 requires baseline reporting and applies to all sources as described in Section 203-1. Owners or operators of components or processes subject to Subpart 203-10 must submit a report to the NYSDEC by March 31, 2023, or by March 31st of the year following initiation of operation. The report shall be in a format approved by the NYSDEC and shall list the number and type of components, including but not limited to the following: (1) Separators, (2) storage vessels, (3) compressors, (4) gas drying systems, (5) pneumatic devices, and (6) metering and regulating systems.

Subpart 203-10.2 requires recordkeeping. The recordkeeping requirements for reciprocating natural gas compressors are to maintain for at least five years the following: (1) A record from the date of each rod packing leak concentration measurement found above the minimum leak threshold as defined in Section 203-4.4; (2) a record of each rod packing emission flow rate measurement from the date of each emissions flow rate measurement; (3) a record that documents the date(s) and hours of operation a compressor is operated in order to demonstrate compliance with the rod packing leak concentration or emission flow rate measurement in the event that the compressor is not operating during a scheduled inspection; and (4) records that provide proof that parts or equipment required to make necessary repairs have been ordered and installed.

Owners or operators of centrifugal natural gas compressors must maintain, for at least five years, the following: (1) A record of each wet seal emission flow rate measurement from the date of each emissions flow rate measurement; (2) a record that documents the date(s) and hours of operation a compressor is operated in order to demonstrate compliance with the wet seal emission flow rate measurement in the event that the compressor is not operating during a scheduled inspection; and (3) records that provide proof that parts or equipment required to make necessary repairs have been ordered and installed.

Owners or operators of natural gas actuated pneumatic devices and vapor collection system and vapor control devices must maintain, for at least five years, the following: (1) A record of the emission flow rate measurement; (2) a record of each LDAR inspection; (3) component leak and repair documentation from the date of each inspection; (4) records that provide proof that parts or equipment required to make necessary repairs have been ordered and installed; and (5) gas service utility records that demonstrate that a system has been temporarily classified as critical to reliable public gas operation throughout the duration of the classification period.

EPA's 2016 CTG recommends that air agencies specify operating, recordkeeping, and reporting requirements to document compliance with the CTG. When implementing an LDAR program, the CTG recommends that air agencies consider including recordkeeping requirements that require owners/operators of subject facilities to maintain a list of identification numbers for all equipment subject to an equipment leak regulation. The CTG appendix includes annual recordkeeping and reporting requirements for pneumatic controllers, compressors, pneumatic pumps, and fugitive emissions.

EPA finds that Subpart 203-10 of New York's part 203, "Oil and Natural Gas Sector," satisfies the requirements of the 2016 CTG.

III. Proposed Action

EPA is proposing to approve New York's part 200 "General Provisions" section 200.9 amendment to Table 1 to add regulation 203-7.1(a) with a CFR citation of "40 CFR part 60, appendix A-7 (July 1, 2017)." EPA is also proposing to approve part 203, "Oil and Natural Gas Sector" control measure because it satisfies the 2016 Oil and Natural Gas Industry CTG. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this *Federal Register*.

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the adoption of Title 6 of the NYCRR part 203, "Oil and Natural Gas Sector" of the New York Administrative Code that implements New York's RACT regulations for the oil and gas CTG, including attendant revisions to 6 NYCRR part 200, "General Provisions," section 200.9, Table 1, "Referenced material,"

as described in section II of this preamble.

The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and/or at the EPA Region 2 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 382, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking action, pertaining to New York's oil and gas sector control measures submission, is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen Dioxide, Intergovernmental Relations, Ozone, Reporting and recordkeeping requirements, Volatile Organic Compounds.

Authority: 42 U.S.C. 7401 et seq.

Lisa Garcia,
Regional Administrator,
Region 2.

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